

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Touandre Brooks

**(b) County of Residence of First Listed Plaintiff** Delaware  
*(EXCEPT IN U.S. PLAINTIFF CASES)*

**(c) Attorneys (Firm Name, Address, and Telephone Number)**  
 Fernando I. Rivera, Esquire, Console Mattiacci Law, LLC  
 1525 Locust Street, 9th Floor, Philadelphia, PA 19102  
 215.545.7676

**DEFENDANTS**

Advanced Stores Company, Inc. and Advanced Auto Parts, Inc. d/b/a Advance Auto Parts

County of Residence of First Listed Defendant Philadelphia*(IN U.S. PLAINTIFF CASES ONLY)*

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)***II. BASIS OF JURISDICTION** *(Place an "X" in One Box Only)*

- |  |  |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question<br><i>(U.S. Government Not a Party)</i> |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity<br><i>(Indicate Citizenship of Parties in Item III)</i>   |

**III. CITIZENSHIP OF PRINCIPAL PARTIES** *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

Citizen of This State	PTF	DEF	Citizen of Another State	PTF	DEF
<input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/>	<input type="checkbox"/> 5
<input type="checkbox"/> 3 Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/>	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN** *(Place an "X" in One Box Only)*

- |   |   |  |   |  |  |   |
|---|---|--|---|--|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*):  
 42 U.S.C. § 2000e, et seq. ("Title VII"), 42 U.S.C. § 1981 ("Section 1981"), 43 P.S. § 951, et seq. ("PHRA"), Phila. Code § 9-1101, et seq. ("PFPO")

**VI. CAUSE OF ACTION**

Brief description of cause:  
 Plaintiff brings this action against Defendants for race discrimination, retaliation, and hostile work environment.

**VII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** In excess of \$75,000.00 **CHECK YES only if demanded in complaint:** **JURY DEMAND:**  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

SIGNATURE OF ATTORNEY OF RECORD

DATE

06/05/2019

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

## DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Sharon Hill, PA 19079

Address of Defendant: 2300 Packard Building, 111 S. 15th Street, Philadelphia, PA 19102

Place of Accident, Incident or Transaction: Philadelphia, PA

## RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when Yes is answered to any of the following questions:

- |  |                              |  |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case  is /  is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 6/5/2019

319009

Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

## CIVIL: (Place a ✓ in one category only)

## A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Patent
- 6. Labor-Management Relations
- 7. Civil Rights
- 8. Habeas Corpus
- 9. Securities Act(s) Cases
- 10. Social Security Review Cases
- 11. All other Federal Question Cases  
(Please specify): \_\_\_\_\_

## B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): \_\_\_\_\_
- 7. Products Liability
- 8. Products Liability - Asbestos
- 9. All other Diversity Cases  
(Please specify): \_\_\_\_\_

## ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Fernando I. Rivera, counsel of record or pro se plaintiff, do hereby certify:

 Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs: Relief other than monetary damages is sought.

DATE: 6/5/2019

319009

Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Touandre Brooks	:	CIVIL ACTION
	:	
v.	:	
Advanced Stores Company, Inc. and	:	
Advanced Auto Parts, Inc. d/b/a Advance	:	NO.
Auto Parts		

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

6/5/2019

Date

215.545.7676

Telephone



Attorney-at-law

215.754.4928

FAX Number

Touandre Brooks

Attorney for

rivera@consolelaw.com

E-Mail Address

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA**

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**TOUANDRE BROOKS**

Sharon Hill, PA 19079

Plaintiff,

v.

**CIVIL ACTION NO.**

**ADVANCED STORES COMPANY,  
INC.**

2300 Packard Building  
111 S. 15<sup>th</sup> Street  
Philadelphia, PA 19102

and

**ADVANCED AUTO PARTS, INC. d/b/a  
ADVANCE AUTO PARTS**

2300 Packard Building  
111 S. 15<sup>th</sup> Street  
Philadelphia, PA 19102

Defendants.

**JURY TRIAL DEMANDED**

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**COMPLAINT**

**I. INTRODUCTION**

Plaintiff, Touandre Brooks (“Plaintiff”), brings this action against his former employers, Advanced Stores Company, Inc., and Advanced Auto Parts, Inc. d/b/a Advance Auto Parts (collectively, “Defendants”). Defendants discriminated and retaliated against Plaintiff based on his race and subjected him to a hostile work environment in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* (“Title VII”), 42 U.S.C. § 1981 (“Section 1981”), the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* (“PHRA”), and

the Philadelphia Fair Practices Ordinance, as amended, Phila. Code § 9-1101, *et seq.* (“PFPO”).

Plaintiff seeks all damages allowable under the law.

**II. PARTIES**

1. Plaintiff is an individual and a citizen of the Commonwealth of Pennsylvania.
2. Plaintiff is African American.
3. Defendant, Advanced Stores Company, Inc., is a corporation formed under the laws of the State of Virginia with its principal place of business located in Roanoke, Virginia.
4. Defendant, Advanced Auto Parts, Inc. d/b/a Advanced Auto Parts, is a corporation formed under the laws of the State of Delaware with its principal place of business located in Raleigh, North Carolina.
5. Defendants engaged in an industry affecting interstate commerce that regularly does business in the Commonwealth of Pennsylvania and with entities and individuals in the Commonwealth of Pennsylvania and in the City of Philadelphia. Defendants also employ residents of the Commonwealth of Pennsylvania and of the City of Philadelphia.
6. At all times material hereto, Plaintiff was employed by Defendants to work at their stores located in the Commonwealth of Pennsylvania and in the City of Philadelphia.
7. At all times material hereto, Defendants employed more than fifteen (15) employees.
8. At all times material hereto, Defendants employed four (4) or more individuals in the Commonwealth of Pennsylvania.
9. At all times material hereto, Defendants acted by and through their authorized agents, servants, workmen, and/or employees acting within the course and scope of their employment with Defendants and in furtherance of Defendants’ business.

10. At all times material hereto, Defendants acted as an “Employer” within the meaning of the statutes that form the bases of this matter.

11. At all times material hereto, Plaintiff was an “Employee” of Defendants within the meaning of the statutes that form the bases of this matter.

**III. JURISDICTION AND VENUE**

12. The causes of action that form the bases of this matter arise under Section 1981, Title VII, the PHRA, and the PFPO.

13. The District Court has jurisdiction over Count I (Section 1981) and Count II (Title VII) pursuant to 28 U.S.C. § 1331.

14. The District Court has supplemental jurisdiction over Count III (PHRA) and Count IV (PFPO) pursuant to 28 U.S.C. § 1337.

15. Venue is proper in this District Court under 28 U.S.C. § 1331(b).

16. On February 28, 2019, Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”), complaining of acts of discrimination and retaliation alleged herein (the “Charge”). The Charge was cross-filed with the Pennsylvania Human Relations Commission (“PHRC”). Attached hereto, incorporated herein, and marked as Exhibit A is a true and correct copy of the Charge (with personal identifying information redacted).

17. On or about March 11, 2019, the EEOC issued to Plaintiff a Notice of Right to Sue for the Charge (the “Notice”). Attached hereto, incorporated herein, and marked as Exhibit B is a true and correct copy of the Notice (with personal identifying information redacted).

18. Plaintiff has fully complied with all administrative prerequisites for the commencement of this action.

#### **IV. FACTUAL ALLEGATIONS**

19. Plaintiff was hired by Defendants on or about September 11, 2008, as a Sales Associate at Defendants' Collingdale store.

20. As a Sales Associate, Plaintiff reported directly to Jeffery Snyder (Caucasian) ("Snyder"), General Manager.

21. Throughout his employment, Plaintiff consistently performed his job duties in an excellent manner.

22. In or around March of 2009, Plaintiff was promoted to Second Assistant Manager of the Collingdale store.

23. In or around late-2011 or early-2012, Plaintiff was promoted to First Assistant Manager of the Collingdale store.

24. In or around late-2013, Plaintiff was promoted to General Manager of Defendants' Folsom store.

25. On or about December 2, 2014, Samuel Hackenburg (Caucasian) ("Hackenberg"), Sales Person, wrote "Nigger fucker" on a receipt and handed it to Plaintiff.

26. On or about December 3, 2014, Plaintiff complained to Coby Shaw (Caucasian) ("Shaw"), District Manager, of race discrimination in connection with Hackenberg's conduct.

27. In response, Shaw laughed and said that he could not believe the audacity of some people.

28. Throughout his employment with Defendants, Plaintiff repeatedly expressed interest in being promoted and participating in leadership, training, and development opportunities, and, in response, Defendants informed Plaintiff that "it was a process."

29. In or around February of 2015, Defendants hired Christopher McErlane

(Caucasian) (“McErlane”) to District Manager overseeing fifteen (15) of Defendants’ Pennsylvania locations, including its Folsom store.

30. Plaintiff began reporting directly to McErlane upon him becoming District Manager.

31. Defendants did not post a job opening for a District Manager position before they hired McErlane.

32. Plaintiff had no opportunity to apply for the District Manager position because it was not posted.

33. If the District Manager position was posted, Plaintiff would have applied for same.

34. Plaintiff was more qualified than McErlane for Defendants’ District Manager position.

35. Throughout his employment with Defendants, Plaintiff was asked to train newly-hired and newly-promoted general managers and district managers.

36. Defendants required Plaintiff to assist in training McErlane as District Manager.

37. During McErlane’s onboarding and transition into the role of District Manager, Plaintiff was required to take on additional roles and responsibilities normally performed by a District Manager, *i.e.*, overseeing three additional locations (Frankford, Oregon Avenue, and Collingdale) and serving as a liaison between McErlane and other district managers in the region.

38. In or around February of 2015, Defendants hired Michael Carr (Caucasian) (“Carr”), an external hire, for the position of General Manager of Defendants’ Lansdown store.

39. As General Manager of the Lansdown store, Carr reported directly to McErlane.

40. On or about July 25, 2018, Defendants promoted Carr to District Manager.

41. Both Plaintiff and Carr held General Manager positions at the time that Carr was

promoted to District Manager.

42. Upon information and belief, McErlane was involved in the decision to promote Carr to District Manager.

43. Upon information and belief, McErlane was aware of Plaintiff's prior complaints of race discrimination.

44. Plaintiff began reporting directly to Carr upon his promotion to District Manager.

45. Defendants did not post a job opening for a District Manager position before they hired Carr.

46. Plaintiff had no opportunity to apply for the District Manager position because it was not posted.

47. If the District Manager position was posted, Plaintiff would have applied for same.

48. Plaintiff was more qualified than Carr for Defendants' District Manager position.

49. Defendants required Plaintiff to assist in training Carr as District Manager.

50. Plaintiff is aware that McErlane discriminated against other African American employees and that they made complaints of race discrimination against McErlane for same.

51. Plaintiff is aware that McErlane retaliated against African American employees who made complaints of race discrimination.

52. Immediately after Plaintiff began reporting to Carr, Carr began subjecting Plaintiff to harsher treatment and greater scrutiny than his Caucasian direct reports.

53. Plaintiff was the longest-service African American employee directly reporting to Carr.

54. On January 10, 2019, via text message from Carr, Defendants terminated Plaintiff's employment, effective immediately.

55. Defendants' stated reason for terminating Plaintiff was for "falsifying company documents and misuse of property."

56. Defendants' stated reason for terminating Plaintiff is false and pretext for race discrimination and retaliation.

57. Plaintiff never received any disciplinary warnings nor was ever placed on a performance improvement plan during his employment with Defendants.

58. Defendants replaced Plaintiff with two non-African American employees.

59. Plaintiff was repeatedly denied promotions to high-level management positions and participation in training, and development opportunities because of his race.

60. Defendants' demographics evidence a bias against African American employees. For example, Defendants have an underrepresentation of African American employees in high-level management positions, including District Manager positions.

61. Upon information and belief, of the approximately one hundred forty-two (142) District Managers at Defendants, only one (1) is African American.

62. Plaintiff's race was a motivating and/or determinative factor in Defendants' discriminatory and retaliatory treatment of Plaintiff, including, but not limited to, the hostile work environment to which Plaintiff was subjected, their failure to promote Plaintiff into a District Manager position, and his termination.

63. Plaintiff's complaint of race discrimination was a motivating and/or determinative factor in Defendants' discriminatory and retaliatory treatment of Plaintiff, including, but not limited to, the hostile work environment to which Plaintiff was subjected, their failure to promote Plaintiff into a District Manager position, and his termination.

64. The discriminatory and retaliatory conduct of Defendants, as alleged herein, was

severe and/or pervasive enough to make a reasonable person believe that the conditions of employment had been altered and that a hostile work environment existed, and made Plaintiff believe that the conditions of employment had been altered and that a hostile work environment existed.

65. As a direct and proximate result of Defendants' discrimination and retaliation, Plaintiff has in the past incurred, and may in the future incur, a loss of earnings and/or earning capacity, loss of benefits, pain and suffering, embarrassment, humiliation, loss of self-esteem, mental anguish, and loss of life's pleasures, the full extent of which is not known at this time.

66. Defendants acted with malice and/or reckless indifference to Plaintiff's protected rights and warrants the imposition of punitive damages against Defendants.

**COUNT I**  
**(VIOLATION OF SECTION 1981)**

67. Plaintiff incorporates herein by reference the above paragraphs as if set forth herein in their entirety.

68. By committing the foregoing acts of race discrimination and retaliation, Defendants have violated Section 1981.

69. Said violations were intentional and made with malice and/or reckless indifference to Plaintiff's rights and warrant the imposition of punitive damages.

70. As a direct and proximate result of Defendants' violation of Section 1981, Plaintiff has sustained the injuries, damages, and losses set forth herein and have incurred attorney's fees and costs.

71. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendants' discriminatory and retaliatory acts unless and until this Court grants the relief requested herein.

72. No previous application has been made for the relief requested herein.

**COUNT II**  
**(VIOLATION OF TITLE VII)**

73. Plaintiff incorporates herein by reference the above paragraphs as if set forth herein in their entirety.

74. By committing the foregoing acts of discrimination and retaliation against Plaintiff, Defendants have violated Title VII.

75. Said violations were intentional and made with malice and/or reckless indifference to Plaintiff's rights and warrant the imposition of punitive damages.

76. As a direct and proximate result of Defendants' violation of Title VII, Plaintiff has sustained the injuries, damages, and losses set forth herein and have incurred attorney's fees and costs.

77. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendants' discriminatory and retaliatory acts unless and until this Court grants the relief requested herein.

78. No previous application has been made for the relief requested herein.

**COUNT III**  
**(VIOLATION OF THE PHRA)**

79. Plaintiff incorporates herein by reference the above paragraphs as if set forth herein in their entirety.

80. By committing the foregoing acts of discrimination and retaliation against Plaintiff, Defendants have violated the PHRA.

81. Said violations were intentional and willful.

82. As a direct and proximate result of Defendants' violation of the PHRA, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorney's fees and costs.

83. Plaintiff is now suffering and will continue to suffer irreparable injuries and monetary damages as a result of Defendants' discriminatory and retaliatory acts unless and until the Court grants the relief requested herein.

84. No previous application has been made for the relief requested herein.

**COUNT IV**  
**(VIOLATION OF THE PFPO)**

85. Plaintiff incorporates by reference paragraphs the above paragraphs of this Complaint as if fully set forth in their entirety.

86. By committing the foregoing acts of discrimination and retaliation against Plaintiff, Defendants have violated the PFPO.

87. Said violations were intentional and made with malice and/or reckless indifference to Plaintiff's rights and warrant the imposition of punitive damages.

88. As a direct and proximate result of Defendants' violation of the PFPO, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorney's fees and costs.

89. Plaintiff is now suffering and will continue to suffer irreparable injuries and monetary damages as a result of Defendants' discriminatory and retaliatory acts unless and until the Court grants the relief requested herein.

90. No previous application has been made for the relief requested herein.

**RELIEF**

WHEREFORE, Plaintiff seeks damages and legal and equitable relief in connection with Defendants' improper conduct, and specifically prays that the Court grant the following relief to the Plaintiff by:

- (a) declaring the acts and practices complained of herein to be in violation of Section 1981;
- (b) declaring the acts and practices complained of herein to be in violation of Title VII;
- (c) declaring the acts and practices complained of herein to be in violation of the PHRA;
- (d) declaring the acts and practices complained of herein to be in violation of the PFPO;
- (e) enjoining and permanently restraining the violations alleged herein;
- (f) entering judgment against Defendants and in favor of the Plaintiff in an amount to be determined;
- (g) awarding compensatory damages to make the Plaintiff whole for all lost earnings, earning capacity and benefits, past and future, which Plaintiff has suffered or may suffer as a result of Defendants' improper conduct;
- (h) awarding compensatory damages to Plaintiff for past and future pain and suffering, emotional upset, mental anguish, humiliation, and loss of life's pleasures, which Plaintiff has suffered or may suffer as a result of Defendants' improper conduct;
- (i) awarding punitive damages to Plaintiff under Section 1981;

- (j) awarding punitive damages to Plaintiff under the Title VII;
- (k) awarding punitive damages to Plaintiff under the PFPO;
- (l) awarding Plaintiff such other damages as are appropriate under Section 1981, Title VII, the PHRA, and the PFPO;
- (m) awarding Plaintiff the costs of suit, expert fees and other disbursements, and reasonable attorney's fees; and,
- (n) granting such other and further relief as this Court may deem just, proper, or equitable including other equitable and injunctive relief providing restitution for past violations and preventing future violations.

CONSOLE MATTIACCI LAW, LLC

BY:



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FERNANDO I. RIVERA, ESQ.  
1525 Locust St., 9<sup>th</sup> Floor  
Philadelphia, PA 19102  
(215) 545-7676 (office)  
(215) 754-4938 (fax)

Dated: June 5, 2019